

**BEFORE THE QUEENSTOWN LAKES  
DISTRICT COUNCIL**

**IN THE MATTER** of the Resource Management Act 1991 (the "Act")

**AND**

**IN THE MATTER** of the Queenstown Lakes District Proposed District Plan

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**LEGAL SUBMISSIONS FOR:**

**G W Stalker Family Trust (535)**

**Mike Henry**

**Mark Tylden**

**Wayne French**

**Dave Finlin**

**Sam Strain**

**Wakatipu Equities Limited (515)**

**Ayrburn Farm Estate Limited (430)**

**Crosshill Farm Limited (531)**

**Cook Adam Trustees Limited/C & M Burgess (669)**

**Slopehill Properties Limited (854)**

**F S Mee Developments Limited (525)**

**[RLC ISSUES]**

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## 1. Introduction

- 1.1 These Submissions are presented on behalf of the Submitters named on the front cover page. All have an interest in land which is currently zoned under the Operative District Plan ("**ODP**"), or is proposed to be zoned under the District Plan Review ("**DPR**"), for a rural purpose (including Rural Lifestyle ("**RL**") and Rural Residential ("**RR**")) and is located outside any Outstanding Landscape ("**ONL**") or Outstanding Natural Feature ("**ONF**") as finally determined. That is to say, land that ends up being zoned Rural Landscape Classification ("**RLC**") if that term is retained or RL or RR.
- 1.2 The DPR Hearing is in the nature of an enquiry. The objective is to achieve the optimum outcome for the DPR under the RMA. There is a responsibility on Counsel and witnesses to assist the Panel to achieve that optimum outcome, regardless of individual client interests.
- 1.3 These legal submissions are presented on the basis that scope is determined by the full range of Submissions lodged to the DPR, not each individual Submission.<sup>1</sup> Therefore, these submissions, and the evidence briefed and to be presented in support of these submissions, propose and address what are considered to be optimum solutions (rather than as specifically requested in individual Submissions) on the assumption that any solution is almost certainly within scope.
- 1.4 To try and minimise confusion, the starting point of these submissions is the DPR provisions as notified, subject to amendments recommended in the s42A Hearing Report, on the assumption that that is the latest position currently being recommended to the Panel. It is understood that the Panel is not bound by those s42A recommendations, but that is the logical starting point.
- 1.5 The focus of these submissions is on provision for rural living in the Wakatipu Basin. Nothing in these submissions relates to ONLs or ONFs. The phrase "*Planning Regime*" as used in these submissions means those Chapter 3 and Chapter 6 planning provisions which relate to existing, consented or potential future rural living opportunities in the Wakatipu Basin (whether located in RL or RR or RLC).

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<sup>1</sup> *Simons Hill Station Ltd v Royal Forest & Bird* [2014] NZHC 1362

## 2. Summary

### 2.1 Summary of the points addressed in these submissions:

- (a) The starting point;
- (b) The Planning Regime does not provide the necessary guidance;
- (c) The Planning Regime is overly, and unjustifiably, restrictive;
- (d) The Planning Regime does not reflect the variety of RLC landscape characters;
- (e) The Planning Regime does not properly take account of Environment Court case law;
- (f) The Planning Regime is unbalanced, and does not implement Section 7 RMA;
- (g) The Planning Regime does not properly reflect Council's own technical s32 research;
- (h) The Planning Regime cannot survive an appropriate s32 examination;
- (i) Amendments to the Planning Regime are necessary to achieve the purpose and principles of the Act;
- (j) Rules 6.4.1.2 and 6.4.1.3;
- (k) Be careful what you wish for.

## 3. The Starting Point

3.1 Start with the facts. Refer Chapter 6 s42A Report, Appendix 5 - Wakatipu Basin map showing existing and consented houses ("**Basin Houses Map**") in **Appendix A**.

3.2 The s42A Report, and Dr Read's June 2014 Report "*Wakatipu Basin Residential Subdivision and Development Landscape Classification Character Assessment*" ("**Dr Read's Basin Study**") which is the Landscape Assessment which underpins the s42A Report, both include statements to the effect that the ODP has failed to adequately manage rural living subdivision in the Basin. The implication is that the Basin Houses Map demonstrates that failure. That ignores the lengthy

planning history which has resulted in the development shown in the Basin Houses Map:

- (a) (1980s) Dalefield 10 acre rural living zone;
- (b) (1980s) One two acre rural living lot per 100 acres rural land rule;
- (c) (1980s) Economic use subdivision;
- (d) (1993?) Plan Change 99 (150ha minimum lot size?);
- (e) (1995) PDP – virtually all rural subdivision non-complying;
- (f) (1998) Minimum 4ha subdivision (valley floor to mountain top);
- (g) (2000/2001) Fully discretionary subdivision regime.

3.3 That lengthy history is relevant to demonstrate:

- (a) Long term demand for rural living in the Basin;
- (b) Failure to reverse that trend in the early 1990s;
- (c) The Basin Houses Map is only partly a consequence of the ODP;
- (d) DPR fails to reflect, and learn from, history.

3.4 The starting point also requires consideration of what is meant by the term "*rural character*" which features so strongly in the relevant s32 documentation and the s42A Report:

- (a) New Shorter Oxford English Dictionary, Clarendon Press, Oxford, 1993: definition of "*rural*":

*"Of, pertaining to, or characteristic of the country or country life; existing or performed in the country; agricultural, pastoral."*

- (b) Collins Concise Dictionary 5<sup>th</sup> Edition 2001 - definition of "*rural*":

"1. *of, relating to, or characteristic of the country or country life;*

2. *living in the country;*

3. *of, relating to, or associated with farming."*

- (c) Refer two recent consent decisions (Nov/Dec 2015) relating to rural living subdivision or development in the Wakatipu Basin which were assessed against both the ODP and DPR objectives and policies;

- (d) All of the above raise a number of questions, including:
  - (i) What is meant by the term "*rural character*"?
  - (ii) Is "*rural living character*" a subset of "*rural character*" or something different from "*rural character*"?
  - (iii) How should the DPR address this issue in relation to the Wakatipu Basin?
- (e) Conclusion: A need to resort to dictionary definitions and/or individual interpretations only leads to problems. The DPR should state, with clarity, what environmental values are intended to be managed and what the desirable outcomes are.

#### **4. The Planning Regime does not provide the necessary guidance**

4.1 Refer **Appendix B**.

#### **5. The Planning Regime is overly, and unjustifiably, restrictive**

5.1 Refer **Appendix B**.

#### **6. The Planning Regime does not reflect the variety of RLC landscape characters**

6.1 Dr Read's Statement of Evidence, paragraph 5.6 on page 8:

"5.6 *Firstly, the description of the qualities which characterise the VAL were developed with reference to the Wakatipu Basin. In my opinion, the landscapes of the Upper Clutha Basin are quite different. The application of the characteristics which give value to the landscapes of the Wakatipu Basin result in a failure to value the characteristics and qualities which give value to the Upper Clutha landscapes. Specifically these relate to the legibility and scale of the landforms, the presence of indigenous vegetation, and the 'big sky' spaciousness of that basin.*"

6.2 The above statement finds support in Ben Espie's 22 November 2014 peer review of Dr Read's Basin Study ("*High Level Review of Proposed District Plan Provisions*") at paragraph 8 on page 3:

"... I generally agree with the premise that the Wakatipu Basin is a part of the District's rural land that requires some separate provisions (most likely Objectives and Policies) in terms of landscape issues. This is primarily because I believe that the community has different aspirations for it, in terms of landscape character and visual amenity, than the rural lands of the District in general. ..."

### 6.3 Comments:

- (a) Where does the Planning Regime reflect that particular distinction?
- (b) Where does the Planning Regime reflect the variety of different landscape character areas within the Wakatipu Basin?
- (c) The DPR suffers from the same major flaw as the ODP – failure to differentiate lowland rural areas of different characters. All the DPR does is reverse the mistake. The ODP was drafted assuming that all non-ONL rural landscapes looked like the Wakatipu Basin ("*pastoral (in the poetic and picturesque sense rather than the functional sense) or Arcadian ...*"),<sup>2</sup> whereas the DPR assumes that all non-ONL rural landscapes look like (or should look like) the Hawea Flats (pastoral in a farming sense).

## 7. The Planning Regime does not properly take account of Environment Court case law

### 'Arcadia'

- 7.1 The Environment Court's seminal decision *C180/99*<sup>3</sup> was the result of a two week hearing, during which the Wakatipu Basin was examined in detail through submissions, extensive evidence, and site visits by the Court. The description quoted in paragraph 6.3(c) above, of the non-ONL Wakatipu Basin rural land which the Environment Court categorised as a Visual Amenity Landscape ("**VAL**"), was a finding of fact by the Environment Court.<sup>4</sup> While a factual determination by the Environment Court is not automatically binding in subsequent cases, it must be accorded considerable weight, particularly if the circumstances

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<sup>2</sup> ODP, Section 4.2.4(3) on page 4-9

<sup>3</sup> *Wakatipu Environmental Society Inc. v QLDC C180/99*

<sup>4</sup> *WESI v QLDC*, paragraphs 113-116

have not changed so as to alter the factual basis of that finding. The Planning Regime, and the s42A Report as it relates to the Planning Regime, fail to accord any weight to that fundamental starting point.

- 7.2 Dr Read's Basin Study, at pages 16-17, examines the "Arcadian" concept. Dr Read starts by saying that the definition (in the ODP) of VAL is "*particularly problematic*". She then examines the concept in some detail, and concludes:

*"This arcadian landscape is, first and foremost, an idealised rural landscape which bears little relationship to a productive or truly pastoral rural landscape.<sup>5</sup> ..."*

- 7.3 Dr Read continues by acknowledging that the VAL definition has led landscape professionals to consider that its development within the District is a goal of the District Plan, and that that has strongly influenced the developing character of the Wakatipu Basin. She then acknowledges that some people consider that the development of this character is positive. She then concludes:

*"It is my opinion that if there is a desire to slow the subdivision and residential development of the Wakatipu Basin and to protect the local character of the landscape then it is necessary to amend the definition of Visual Amenity Landscapes to remove references to 'arcadia'.<sup>6</sup>"*

- 7.4 I note that Dr Read's recommendation to remove references to 'arcadia' is based upon a presumed objective to reduce the extent of rural living development, rather than any objective analysis of either the Wakatipu Basin landscape character or its ability to absorb further development.

- 7.5 This conclusion is then picked up in the s32 Report relating to landscape issues:

*"A deficiency with the existing 'Visual Amenity Landscape' landscape provisions is that they anticipate the maintenance, if not the creation of, a specific type of landscape, being 'arcadian' or*

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<sup>5</sup> Dr Read's Basin Study, bottom of page 16

<sup>6</sup> Dr Read's Basin Study middle of page 17

*'pastoral in the poetic sense'. However much of the land that is subject to the provisions has a different landscape character."*<sup>7</sup>

7.6 This issue is then picked up in the Chapter 6 s42A Report:

*"... A deficiency with the ODP 'Visual Amenity Landscape' landscape provisions is that they anticipate the maintenance, if not the creation of, a specific type of landscape, with the ODP rules using the words being 'arcadian' or 'pastoral in the poetic sense'. However much of the rural land that falls in this classification has varying types of landscape character. A consideration of the different characters of the Wakatipu Basin and the Upper Clutha Basin illustrates this point."*<sup>8</sup>

*"Notwithstanding the development pressure for rural living opportunities, this matter may be a reason why there have been a relatively high number of residential building platforms approved in the Wakatipu and Wanaka Basins. It is difficult to suggest, or for the Council to quantify that the amount of consented development has reached a cumulative adverse effect, when the provisions in the ODP anticipate the creation of 'arcadian' or 'pastoral in the poetic sense' landscape."*<sup>9</sup>

7.7 The s42A Report then goes on to record:

*"The replacement of the Visual Amenity Landscapes (VAL) and Other Rural Landscapes (ORL) categories with the Rural Landscape classification are more than just the consolidation of two classifications into one. It has been identified that the VAL and ORL planning frameworks are not the most appropriate way to manage the landscape resource and the entire policy framework and assessment matters in Part 21.7 have been modified to reflect that the landscape quality should not be based on the terms of an 'arcadian or pastoral in the poetic sense' landscape ..."*<sup>10</sup>  
[underlining added]

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<sup>7</sup> Section 32 Evaluation Report "Landscape, Rural Zone and Gibbston Character Zone", page 13, second to last paragraph

<sup>8</sup> Chapter 6 s42A Report, paragraph 6.6, second bullet point on page 6

<sup>9</sup> Chapter 6 s42A Report, paragraph 6.6, third bullet point on page 6

<sup>10</sup> Chapter 6 s42A Report, paragraph 9.9, on page 9



- 7.8 The confirmed and definitive policy approach quoted above:
- (a) Makes no reference to, and completely ignores, the Environment Court determinations in C180/99 18 years ago, which were themselves based upon a factual assessment at the time and an application of the relevant RMA provisions at the time;
  - (b) Provides no factual, policy or legal rationale for taking such a radically different approach to that taken by the Environment Court in C180/99, unless the rationale is Dr Read's stated assumption that the intention is to restrict rural living subdivision;
  - (c) Is arrived at despite evidence that the arcadian character identified 18 years ago has further developed since that time, and therefore is not based upon any change of circumstances which would render the Environment Court's earlier determinations no longer valid;
  - (d) In particular it is not based upon an accurate consideration of the current factual circumstances and application of the relevant statutory provisions.

*Open Character*

- 7.9 The s32 documentation, and the Planning Regime, contain numerous references to a desire to protect or maintain the "*open character*" of RLC land. This issue was debated and considered at some length, and in some detail, by the Environment Court in C180/99. Paragraphs 153 and 154 of that Judgment read:

" 153. *The key parts of the stated issue are its references to:*

- *'open character'*
- *'open expanse of ... landscapes and the views these afford'.*

*While it is correct that large parts of the district are relatively open in that they are not covered by forest or towns it is important to recognize that situation is:*

- (a) *not completely natural – there has been considerable human influence first by Maori burning, and latterly and with more impact, by pastoral and other European practices;*

(b) *dynamic and changing.*

*The evidence was that there are many more trees and much more conscious landscaping now than there were in the Wakatipu Basin 100 years ago. We conclude that open character is a quality that needs only be protected if it relates to important matters, otherwise it should be left to individual landowners (subject to not creating 'nuisances' or other unacceptable adverse effect to neighbours) to decide whether their land should be open or not. Of course in relation to section 6(b) landscapes which are outstanding simply because they are open, there is little difficulty in establishing need for protection. Similarly section 7(b) landscapes which are important because they give foregrounds to views of outstanding landscapes may also need protection.*

154 *While the open character of outstanding natural landscapes can be justifiably maintained, we do not see that it is appropriate to maintain the open character of all other landscapes. They may after all be improved:*

- in an aesthetic sense by the addition of trees and vegetation; and/or*
- in an ecological sense by the planting of native trees, shrubs, or grasses recreating an endemic habitat.*

*We consider that the protection of open character of landscapes should be limited to areas of outstanding natural landscape and features (and rural scenic roads).*

[underlining added]

7.10 A number of cases since C180/99 have confirmed this principle. It is entirely inappropriate for the Council to now seek to re-litigate this established principle, particularly when no reference is made to prior Environment Court caselaw on the subject and no rationale is provided for proposing to depart from prior Environment Court determinations.

## 8. The Planning Regime is unbalanced, and does not implement Section 7 RMA

8.1 In *C180/99* the Environment Court found that the majority of the Wakatipu Basin (non-ONL) landscapes are Section 7 landscapes.<sup>11</sup> That finding resulted in the VAL category in the ODP. Rural living development in the Basin over the 15+ years since that finding has been carried out in accordance with objectives, policies and rules designed to maintain and enhance that VAL. There is no evidence in the Council's s32 documentation, including the s42A Report, which suggests that situation has changed. In fact the contrary is the case, as stated above.

8.2 Subject to any factual finding that the circumstances have changed such that the Wakatipu Basin is no longer primarily a Section 7 landscape (or series of landscapes) then Section 7 should be the primary RMA provision against which the Planning Regime is evaluated. The primary relevant Section 7 components are:

- *(b) the efficient use and development of natural and physical resources;*
- *(c) maintenance and enhancement of amenity values;*

8.3 Those two components essentially comprise two competing directions which must be balanced. Section 7(b) encourages an enabling regime which allows the landowner to develop land resulting in consequential economic and social benefits. Section 7(c) is a brake on the extent of such development.

8.4 The Council s32 documentation, including the s42A Report, places little or no emphasis on s7(b), to the extent of virtually ignoring it:

- (a) Refer Basin Houses Plan in Appendix A:
  - Benefits
  - Costs
- (b) The s32 Report makes a single passing reference to the enabling concepts embodied in s7(b) and the related benefits:

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<sup>11</sup> *WESI v QLDC C180/99* at paragraph 116

*"In particular, Section 7(b) requires regard is had to the efficient use and development of natural and physical resources. The Rural Zone and Gibbston Character Zone contain land utilised for primary production purposes."*<sup>12</sup>

**Note:** No reference to rural living.

- (c) The only reference in the s42A Report to the enabling concepts embodied in s7(b), and the related benefits, is:

*"The purpose of the Rural Zone is to provide for farming activities and manage the effects of other activities seeking to utilise the rural land resource (ie: skiing, commercial recreation activities, mining, forestry and industrial activities) ..."*<sup>13</sup>

**Note:** No reference to rural living.

8.5 Not only does the Council s32 analysis, and the consequential Planning Regime, almost entirely ignore s7(b), the focus on preservation of the "rural landscape" arguably also fails to accord appropriate weight to s7(c) – in the Wakatipu Basin, which has been determined by the Environment Court to be a 'visual amenity landscape'.

8.6 The consideration of matters relevant under Section 7 RMA is grossly inadequate.

## 9. **The planning regime does not properly reflect Council's own technical s32 research**

9.1 Refer to Dr Read's Basin Report.<sup>14</sup>

**Note to Commissioners:** To assist understanding the presentation of these legal submissions it would assist if this Report has been read in full, as it will be submitted that this Report has particular significance.

9.2 Dr Read's Basin Report was peer reviewed by Ben Espie<sup>15</sup>. The following quotations from that Report are pertinent:

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<sup>12</sup> s32 Evaluation Report – Landscape, middle of page 4

<sup>13</sup> s32 Evaluation Report – Landscape, Part 6 on page 22, second paragraph

<sup>14</sup> "Wakatipu Basin Residential Subdivision and Development: Landscape Character Assessment" dated June 2014

"8 ... I generally agree with the premise that the Wakatipu Basin is a part of the District's rural land that requires some separate provisions (most likely Objectives and Policies) in terms of landscape issues. This is primarily because I believe that the community has different aspirations for it, in terms of landscape character and visual amenity, than the rural lands of the District in general. ...

10 ... I also agree with the concept of categorising all rural land that is not within an ONL or ONF as one category. I am unsure whether the Wakatipu Basin needs to be given a separate landscape category or whether it could be dealt with via two or three Policies under the Rural Landscapes Objective (the same could perhaps be said in relation to the Gibbston Valley and possibly the inner upper Clutha basin); to my initial thinking, the Wakatipu Basin is a subset of the District's rural landscapes, rather than a separate type of landscape altogether.

15 ... I consider that an appropriate goal in relation to cumulative effects is to allow the rural landscape to evolve over time (as all landscapes do) but to disallow changes that lead to significant incremental adverse degradation of landscape character; i.e. allow landscape character to change over time provided that the emerging landscape character is not of a significantly lower value than the previously existing character. This will mean that some characteristics and qualities that are currently valued may be lost over time, but will be replaced by new or altered qualities and characteristics."

9.3 When one examines the relevant s32 Evaluation Report to ascertain how it has dealt with the recommendations of Council's technical landscape experts, firstly as to the ability of the Wakatipu Basin to accommodate further development and secondly as to the need to differentiate the Wakatipu Basin (preferably by policy provision), the best one can find (excluding rezoning recommendations and without

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<sup>15</sup> Ben Espie Report dated 20 November 2014 entitled "*Landscape Issues – High Level Review of Proposed District Plan Provisions*"

reiterating the comments above relating to 'arcadian' landscapes) is the following:

- (a) *"... The [Rural Monitoring Report 2009] identified a lack of connection between the objectives and policies of the landscape categories identified within the plan and the assessment matters. The report suggested that these could more explicitly outline the desired landscape outcome, particularly for the areas subject to the 'Visual Amenity Landscapes category' assessment criteria."*<sup>16</sup>
- (b) *"... The Read Landscapes study examined the landscape of the Wakatipu Basin and made recommendations on the options of future management of subdivision and development. This study includes consideration of the benefits of changing the planning rules to require a minimum allotment size in the Wakatipu Basin, and areas within the Wakatipu Basin where the landscape has capacity for additional subdivision and development or has reached a threshold ..."*<sup>17</sup>

9.4 The extent to which the s42 Report does or does not reflect those recommendations of Council's technical landscape experts can best be illustrated by quoting the following from the Executive Summary:<sup>18</sup>

- *"The objectives and policies, and limited rules in this chapter, provide a more appropriate platform than the ODP to manage land use, subdivision and development and the protection of the District's landscapes from inappropriate development, through providing better specificity of the activities that could be contemplated within specified areas and landscape classifications.*
- *The policy framework recognises that traditional farming and the retention of large landholdings is an important element of rural character, and that this attribute is a value of its own and is distinct from amenity values.*
- *The identification of a new landscape category 'Rural Landscape' to replace the ODP Visual Amenity Landscape and*

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<sup>16</sup> s32 Evaluation Report – Landscape – last paragraph on page 12

<sup>17</sup> s32 Evaluation Report – Landscape – first paragraph on page 13

<sup>18</sup> S42A Hearing Report, Section 1.1 on page 2, first, third, fourth and seventh bullet points

*Other Rural Landscape categories recognises the value of rural character and the openness and lack of domestic elements where these are present within the landscape.*

- *The removal of the Visual Amenity Landscape classification better equips the PDP with the ability to manage cumulative effects of subdivision and development."*

9.5 The short summary of all of the above is that two significant recommendations of the Council's expert landscaper advisers, being firstly that there are areas of the Wakatipu Basin that can accommodate more development and secondly that the Wakatipu Basin is different from other RLC areas and should be treated differently, have been discarded in the s32 Report and s42A Report, virtually without examination or consideration.

## 10. **The planning regime cannot survive an appropriate s32 examination**

10.1 The matters addressed above establish that:

- (a) There is a significant failure in the starting point of the Council's s32 analysis. Dr Read's initial 'Existing Condition' assessment of the Wakatipu Basin, which forms the basis of the s32 Report and the Planning Regime and the s42A Report, is fundamentally flawed;
- (b) There has been a complete failure to assess the economic and social value of existing rural living development in the Basin, and the potential economic and social value of further rural living development (s7(b));
- (c) Consideration of s7(c) amenity values is inadequate because it is based upon an incorrect factual assessment of the current condition of the Wakatipu Basin, and because of the related determination that the focus of the Planning Regime should be on the retention of 'rural character';
- (d) There is no explanation of why Dr Read's assessment of the development absorption capacity of different areas of the Basin (albeit perhaps brief) has not been carried forward to inform the Planning Regime;

- (e) There is no explanation of why the clearly obvious different characteristics of the Wakatipu Basin (compared to other RLC areas), identified by Council's expert landscape witnesses, have not been recognised and provided for in the DPR;
- (f) All of the above has resulted in an unbalanced and flawed Planning Regime which significantly understates the potential benefits of enabling additional rural living development and significantly overstates the potential costs. It fails a s32 analysis by a significant margin.

**11. Amendments to the planning regime are necessary to achieve the purpose and principles of the Act**

11.1 This is generally covered in the planning evidence being presented. I note:

- (a) Evidence in relation to these submissions has been provided by Paddy Baxter (Landscape), Ben Farrell (Planning) and Jeff Brown (Planning);
- (b) The planning witnesses were briefed to consider the issues and provide their independent recommendations. Due to the pressure of time, and subject to the following paragraph, there has been no consultation between those two planning experts in relation to these issues. Accordingly the Panel has the benefit of some differences in the recommendations which may assist the Panel to consider a range of potential options.

11.2 The previous paragraph does not apply to the proposed new Objective 6.3.5, which is the most detailed Objective relevant to the RLC in general and the Wakatipu Basin in particular. There has been some three-way consultation relating to proposed Objective 6.3.5.

11.3 I comment on the suggested rewrite of Objective 6.3.5 and related policies, as set out in **Appendix C**. In doing this I make three primary points:

- (a) The suggested rewrite seeks to more appropriately address Section 7(b) in particular;



- (b) I suggest that this rewrite is adequate at the Chapter 6 level to inform decisions about RL and RR rezoning requests in later DPR hearings;
- (c) The suggested rewrite assumes that a further suite of more detailed policies would be developed to address the differing characters of different parts of the RLC and to guide future potential development of the RLC. That suite could be located either in Chapter 6 or in the Rural Chapter 21.

11.4 Refer to **Appendix C**.

## 12. **Rules 6.4.1.2 and 6.4.1.3**

12.1 Rule 6.4.1.2 (as amended in the s42A Report) reads:

*"6.4.1.2 ~~The landscape categories apply only to the Rural Zone. The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.~~*

*6.4.1.3 The landscape categories assessment matters apply only to the Rural Zone[s], and for clarification purposes do not apply to the following areas within the Rural Zones:*

- a. Ski Area Activities within the Ski Area Sub Zones.*
- b. The area of the Frankton Arm located to the east of the Outstanding Natural Landscape line as shown on the District Plan maps.*
- c. The Gibbston Character Zone.*
- d. The Rural Lifestyle Zone.*
- e. The Rural Residential Zone."*

12.2 Comment:

## 13. **Be careful what you wish for**

13.1 Policy 3.2.5.5.2 reads:

*"Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated."*

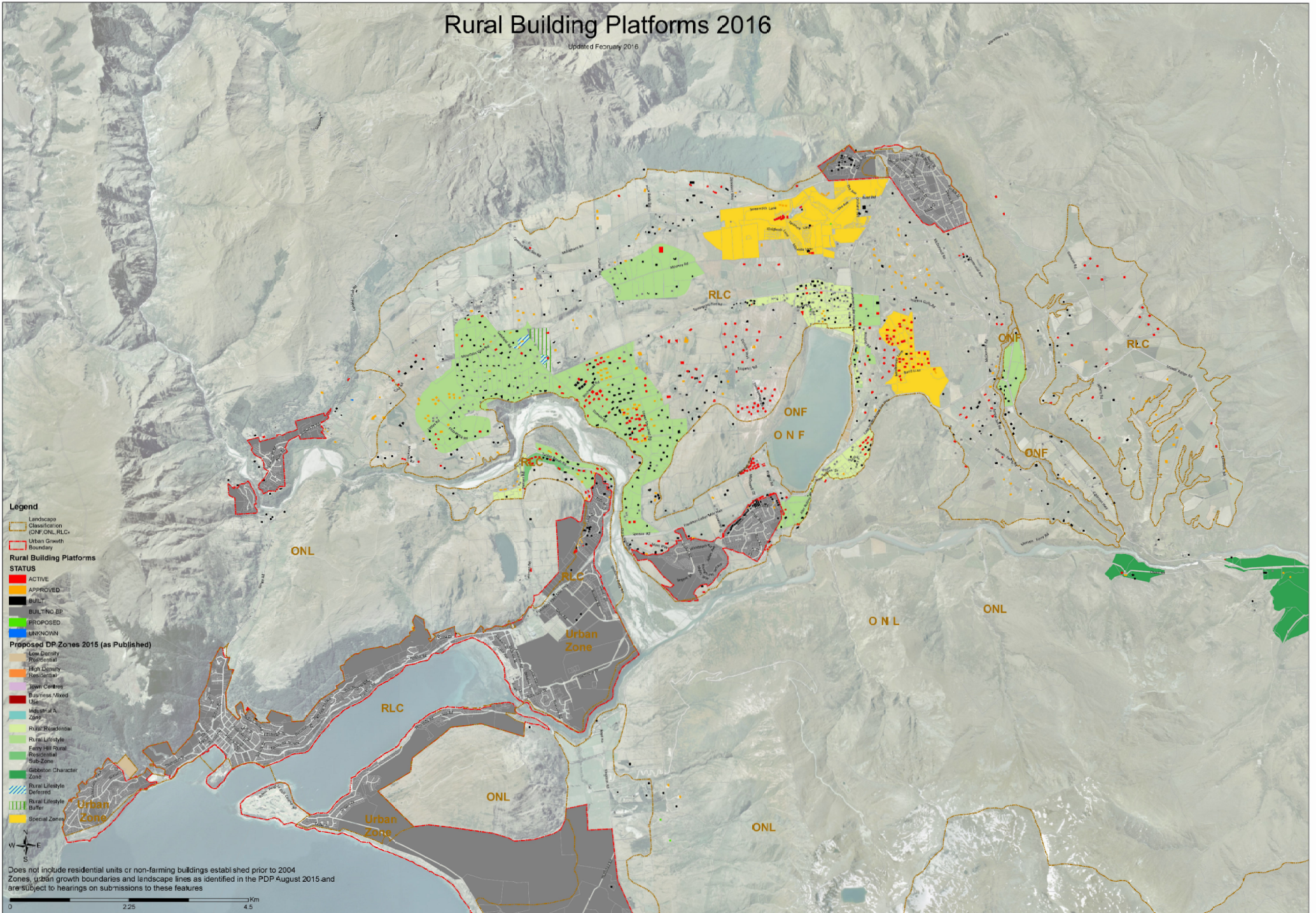
13.2 Comment:

**APPENDIX A**

**[Chapter 6 s42A Report, Appendix 5 - Wakatipu Basin map showing existing and consented houses]**

# Rural Building Platforms 2016

Updated February 2016



Does not include residential units or non-farming buildings established prior to 2004  
Zones, urban growth boundaries and landscape lines as identified in the PDP August 2015 and  
are subject to hearings on submissions to these features

**APPENDIX B**

**[Planning Regime Proposed by Council]**

## APPENDIX B

### 3 Strategic Direction

#### 3.1 Purpose

- A district providing a variety of lifestyle choices.

#### 3.2 Goals, Objectives and Policies

**3.2.1.6 Objective** - Recognise the potential for rural areas to diversify their land use beyond the strong productive value of farming, provided ~~a sensitive approach is taken to~~ adverse effects on rural amenity, landscape character, healthy ecosystems, and Ngai Tahu values, rights and interests are avoided, remedied or mitigated.

#### 3.2.5 Goal - Our distinctive landscapes are protected from inappropriate development.

**3.2.5.2 Objective** - ~~Minimise the adverse landscape effects of subdivision, use or development in specified Rural Landscapes.~~ Maintain and enhance the landscape character of the Rural Landscape Classification, whilst acknowledging the potential for managed and low impact change.

**3.2.5.3 [Objective** - Direct new urban subdivision, use or development to occur in those areas which have potential to absorb change without detracting from landscape and visual amenity values.]

**3.2.5.4 Objective** – Recognise there is a finite capacity for residential activity in rural areas if the qualities of our landscape are to be maintained.

#### Policies

3.2.5.4.1 Give careful consideration to cumulative effects in terms of character and environmental impact when considering residential activity in rural areas.

3.2.5.4.2 Provide for rural living opportunities in appropriate locations.

**3.2.5.5 Objective** - Recognise that agricultural land use is fundamental to the character of our landscapes.

#### Policies

3.2.5.5.1 Give preference to farming activity in rural areas except where it conflicts with significant nature conservation values.

3.2.5.5.2 Recognise that the retention of the character of rural areas is often dependent on the ongoing viability of farming and that evolving forms of agricultural land use which may change the landscape are anticipated.

### 6 Landscape

#### 6.2 Values

The District's landscapes are of significant value to the people who live in, work in or visit the District. The District relies in a large part for its social and economic wellbeing on the quality of the landscape, open spaces and environmental image.

The landscapes consist of a variety of landforms created by uplift and glaciations, which include mountains, ice-sculpted rock, scree slopes, moraine, fans, a variety of confined and braided river systems, valley floors and lake basins. These distinct landforms remain easily legible and strong features of the present landscape.

Indigenous vegetation also contributes to the quality of the District's landscapes. Whilst much of the original vegetation has been modified, the colour and texture of indigenous vegetation within these landforms contribute to the distinctive identity of the District's landscapes.

The open character of productive farmland is a key element of the landscape character which can be vulnerable to degradation from subdivision, development and non-farming activities. The prevalence of large farms and landholdings contributes to the open space and rural working character of the landscape. The predominance of open space over housing and related domestic elements is a strong determinant of the character of the District's rural landscapes.

Some rural areas, particularly those closer to Queenstown and Wanaka town centres and within parts of the Wakatipu Basin, have an established pattern of housing on smaller landholdings. The landscape character of these areas has been modified by vehicle accesses, earthworks and vegetation planting for amenity, screening and shelter, which have reduced the open character exhibited by larger scale farming activities.

While acknowledging these rural areas have established housing, a substantial amount of subdivision and development has been approved in these areas and the landscape values of these areas are vulnerable to degradation from further subdivision and development. It is realised that rural ~~lifestyle~~ living development has a finite capacity if the District's distinctive rural landscape values are to be sustained.

The Rural Landscapes ~~C~~-classification (RLC) makes up the remaining Rural Zoned land and has varying types of landscape character and amenity values. Specific policy and assessment matters are provided to manage the potential effects of subdivision and development in these locations.

### **6.3 Objectives and Policies**

#### **6.3.1 Objective - The District contains and values Outstanding Natural Features, Outstanding Natural Landscapes, and Rural Landscapes that require protection from inappropriate subdivision and development.**

6.3.1.43 That subdivision and development proposals located within the Rural Landscape be assessed against the assessment matters in provisions 21.7.2 and 21.7.3 because subdivision and development is inappropriate in many locations in these landscapes, meaning successful applications will be, on balance, consistent with the assessment matters.

6.3.1.65 Enable rural ~~lifestyle~~ living through applying Rural Lifestyle, ~~Zone~~ and Rural Residential and Resort Zone plan changes in areas where the landscape can accommodate change.

6.3.1.4410 Recognise the importance of protecting the landscape character and visual amenity values, particularly as viewed from public places.

#### **Policies**

6.3.2.1 Acknowledge that subdivision and development in the rural zones, specifically residential development, has a finite capacity if the District's landscape quality, character and amenity values are to be sustained.

6.3.2.2 Allow residential subdivision and development only in locations where the District's landscape character and visual amenity would not be degraded.

6.3.2.3 Recognise that proposals for residential subdivision or development in the Rural Zone that seek support from existing and consented subdivision or development have potential for adverse cumulative effects, ~~particularly~~ particularly where the subdivision and development would constitute sprawl along roads.

6.3.2.4 Have particular regard to the potential adverse effects on landscape character and visual amenity values from infill within areas with existing rural lifestyle development or where further subdivision and development would constitute sprawl along roads.

6.3.2.5 Ensure incremental changes from subdivision and development do not degrade landscape quality, character or openness as a result of activities associated with mitigation of the visual effects of proposed development such as screening planting, mounding and earthworks.

**6.3.5 Objective - Ensure subdivision and development does not degrade landscape character and diminish visual amenity values of the Rural Landscapes (RLC).**

**Policies**

6.3.5.1 Allow subdivision and development only where it will not degrade landscape quality or character, or diminish the visual amenity values identified for any Rural Landscape.

6.3.5.2 Avoid adverse effects from subdivision and development that are:

- Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and
- Visible from public roads.

6.3.5.3 Avoid planting and screening, particularly along roads and boundaries, which would degrade openness where such openness is an important part of the landscape quality or character.

6.3.5.4 Encourage any landscaping to be sustainable and consistent with the established character of the area.

6.3.5.5 Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where ~~they it will be least visible, and have the least~~ minimise disruption to the landform and rural character.

6.3.5.6 Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present.

6.4.1.2 ~~The landscape categories apply only to the Rural Zone.~~ The Landscape Chapter and Strategic Direction Chapter's objectives and policies are relevant and applicable in all zones where landscape values are at issue.

**APPENDIX C**

**[Proposed Amended Objective 6.3.5]**

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## APPENDIX C

**6.3.5 Objective – ~~Ensure~~ Enable appropriate subdivision and development ~~does not degrade landscape character and diminish visual amenity values of~~ in the Rural Landscapes (RLC).**

Policies **6.3.5.1** Recognise that the RL is a resource with significant economic and social value including, but not limited to, rural productive activities, outdoor recreation activities and rural living activities.

**6.3.5.2** Recognise that different parts of the RL have different characters, different visual amenity values and variable ability to absorb further development.

**6.3.5.3** Allow ~~Enable~~ subdivision and development ~~only where it will not degrade landscape quality or character, or diminish~~ which avoids, remedies or mitigates adverse effects on the visual amenity values of the surrounding RL to the extent that the character of the surrounding RL (including the development location) is generally maintained or enhanced. ~~identified for any Rural Landscape.~~

**6.3.5.24** Avoid or appropriately mitigate adverse effects from subdivision and development that are:

- Highly visible from public places and other places which are frequented by members of the public generally (except any trail as defined in this Plan); and
- Visible from public formed roads.

**6.3.5.35** Avoid planting and screening, particularly along roads and boundaries, which would ~~degrade openness where such openness is an important part of the landscape quality or character.~~ obstruct significant views or significantly adversely affect visual amenities.

**6.3.5.46** Encourage any landscaping to be sustainable and consistent with the established character of the area.

**6.3.5.57** Encourage development to utilise shared accesses and infrastructure, and to locate within the parts of the site where ~~they it will be least visible, and have the least~~ minimise disruption to the landform, ~~and rural character.~~

**6.3.5.6** ~~Have regard to the adverse effects from subdivision and development on the open landscape character where it is open at present.~~